

REMARKS

5 1. Applicant thanks the Examiner for his kind assistance provided during a telephone interview on November 19, 2003. During said interview, the Examiner reiterated his position that the combination of references upon which the rejection of the Claims under 35 USC §103(a) was based was proper and that the Claims were not allowable over the cited references. Applicant suggested that the Examiner's application
10 of case law in the present application had been improper in that the Examiner had failed to apply the case law by explaining how the facts in the cited cases were similar to the facts in the present application, as required by MPEP § 2144. The Examiner disagreed, contending that MPEP § 2145 relieved him of the necessity of doing so. The Examiner agreed that Hawkins does not teach a workflow engine; however, he noted that the
15 function of the workflow engine was not adequately described to distinguish it from the proxy server of Hawkins.

2. It should be appreciated that Applicant has elected to amend Claims 87, 89, 90, 97, 102 and 108 and cancel Claims 88, 92-93 and 110-118 solely for the purpose of
20 expediting the patent application process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such cancellations and amendments, Applicant has not and does not in any way narrow the scope of protection to which Applicant considers the invention herein to be entitled. Rather, Applicant

reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission

- 5 4. Claim 87 stands rejected under 35 USC § 103(a) as being unpatentable over Hawkins in view of Sato and further in view of U.S. Patent No. 5,619,991 ("Sloane"). Applicant respectfully disagrees.

The Examiner relies on Hawkins as teaching:

- 10 "initiating a query message by a patient from a patient-operated computer using a first medical messaging wizard;

generating a problem-specific, patient-specific electronic form for said patient to complete by said first medical messaging wizard from a problem-related database and a medical profile for said patient, wherein a form completed by said patient comprises a query message," referring to the easy-to-fill forms described at Col 12, line 40 – 67 of Hawkins. Applicant respectfully disagrees.

- A wizard is conventionally understood to mean "an interactive help utility that guides the user through each step of a particular task" Microsoft Computer Dictionary, 4th ed., Redmond WA (1999). The cited teaching from Hawkins describes a web page that provides service icons for requesting various types of information, such as stock quotes and airline information. Selecting a service icon, "starts a corresponding wireless application which contains a form." Line 58 – 59 (emphasis added). The forms themselves are stored in memory. Line 60 (emphasis added). After completing the form,

the user selects a "submit" button. Line 62. Thus, the application merely presents the user with a stored form template. There is no step-wise interactivity, as with a wizard. Thus, while Hawkins teaches problem-specific forms, they are not patient-specific, nor are they generated by a medical messaging wizard from a problem-related database
5 and a medical profile. Sato describes a system that allows face-to-face, real-time interaction between patient and physician, but there is no teaching or suggestion of a medical messaging wizard generating problem-specific, patient specific forms from a problem-related database and the patient's medical profile.

10 The cited teachings from Sloane also do not teach "generating a problem-specific, patient-specific electronic form for said patient to complete by said first medical messaging wizard from a problem-related database and a medical profile for said patient, wherein a form completed by said patient comprises a query message." Sloane teaches that the patient makes a data call to the e-doc computer. Col. 3, line 51. Thus,
15 the patient logs onto the e-doc computer real time, as one logs onto a host computer. The computer prompts the patient to supply a medical history, or retrieves it if it has been previously stored. Col. 3 Line 58 to line 62. The e-doc computer then executes an expert system that prompts the caller for information, and asks questions according to a logic tree. Col. 4, line 3 to line 6. Thus, there are no forms involved, and although the
20 computer retrieves a patient record, it only does so in order to create a record of the patient's inquiry, rather than to extract information from it for use in the diagnostic process. There is no indication that the patient history is employed by the expert system in the diagnostic process, instead relying only on the logic tree. Accordingly, while

Hawkins does teach problem-specific forms, even combining the teachings of Hawkins with those of Sato, the skilled practitioner would not be lead to

"initiating a query message by a patient from a patient-operated computer using a first medical messaging wizard;" and

5 "generating a problem-specific, patient-specific electronic form for said patient to complete by said first medical messaging wizard from a problem-related database and a medical profile for said patient, wherein a form completed by said patient comprises a query message."

10 5. In spite of the above, Applicant has amended Claim 87 to distinguish it from the cited references more thoroughly. Claim 87 has been amended to include:

"if a prescription is indicated, embedding a prescription in said response message by said physician, wherein said patient response message having said embedded prescription is sent to said patient by means of said workflow engine;

15 viewing said embedded prescription by said patient;

routing said embedded, viewed prescription to a pharmacy of choice by said patient by means of said workflow engine, wherein said workflow engine automatically updates said medical profile with said prescription;

20 appending a billing to said response by means of said second medical messaging wizard;

sending billing data to said workflow engine, wherein said workflow engine and directs said patient response having said appended billing to said patient;

routing messages among physicians and physician extenders by means of said workflow engine;

wherein said workflow engine integrates a plurality of operations as a single medical profiler process”

Support for the amendments is found in Cancelled Claims 88, and 92 – 93. Further
5 support for the amendments is found in the specification of the published PCT application corresponding to the present application, US00/23730, at page 30, line 12 to line 26. Additional support for the amendments is found in original Claims 1, 2 and 10 – 12.

10 Applicant notes that there is no teaching in the cited references either separately or together of a workflow engine. While the combined teachings of the references may teach many of the operations described in the present application, there is no teaching or suggestion that they be integrated as a single process by the workflow engine.

15 Applicant has also amended Claim 87 to describe that prescribing operation in greater detail. Although applicant notes that Sato, Sloane and Merck-Medco all describe prescribing operations, in all cases, the message flow proceeds from physician to pharmacist. In all cases, the patient is omitted from the message flow. In the present application, a prescribing operation is described that duplicates the real-word
20 prescribing operation: the physician provides the patient a prescription, and the patient, at the patient's own discretion takes the prescription to the pharmacy of the patient's own choosing. Thus, the invention recognizes the role of the patient as an essential participant in the prescribing operation, unlike Sato, or Sloane or Merck-Medco.

Accordingly, Claim 87 is deemed to describe subject matter that is patentably distinct from the cited references. Therefore, the rejection of Claim 87 under 35 USC §103(a) is deemed overcome. The rejections of the dependant Claims are rendered moot by the amendment to Claim 87.

6. Claims 110-118 are cancelled from the application.

CONCLUSION

In view of the above, the Application is deemed to be in allowable condition. Accordingly, the Examiner is earnestly requested to withdraw all rejections and allow the Application to pass to issue as a U.S. Patent. Should the Examiner have any questions regarding the Application, he is urged to contact Applicant's attorney at the telephone number given below.

Respectfully submitted,



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